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May 2, 2016

By ECF

Honorable Laura Taylor Swain
United States District Judge
Southern District of New York
500 Pearl Street
New York, N.Y. 10007

**Re: *United States v. Sean Stewart*
15 Cr. 287 (LTS)**

Dear Judge Swain:

We write to apprise the Court of further communications with Mr. Stewart's Pretrial Services Officer John Moscato and to correct certain misrepresentations in the government's opposition to our request to modify the conditions of Mr. Stewart's release. Our intention was to provide this update and correction before the Court ruled on Mr. Stewart's motion.

In opposing Mr. Stewart's request for a modification to his terms of release, the government misrepresented to the Court that Mr. Stewart's submission "merely lays out for the Court all of the facts that were previously before it." For the reasons detailed below, this is false.

Mr. Stewart Has Provided Substantial Documentation of His Financial Condition

Since the Court imposed the condition of home confinement upon Mr. Stewart, he has provided the government with the following:

1. Bank statements and transaction history from the security account;
2. Bank statements and transaction history from Mr. Stewart's JPMorgan checking account, to which the money in the security account was transferred;
3. Two sworn statements of financial condition that Mr. Stewart submitted in an unrelated legal proceeding;
4. A narrative description, supported by financial records, of the manner by which the proceeds of the security account were spent; and
5. A follow-up email further detailing transfers in Mr. Stewart's checking account.

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*See Letter from M. Cohen to S. McCallum and B. Cucinella, dated March 22, 2016, enclosed as Exhibit A; and Email from M. Cohen to S. McCallum and B. Cucinella, dated April 11, enclosed as Exhibit B.*¹

Unless the government provided such documents to the Court *ex parte*, none of that information was before the Court during the January 29 conference. As the Court may recall, at the January 29 conference this Office had only just been appointed counsel for Mr. Stewart and had not yet had the opportunity to fully investigate Mr. Stewart's financial condition. In the intervening months, we have worked to address the Court's concerns, culminating in our letter to the Court on April 20.

Of particular relevance to the government's professed concern, Mr. Stewart tendered two sworn affidavits—both unrelated to this criminal action—establishing that he has, and had, no substantial assets that may give rise to a risk of flight. Those affidavits, which were also not previously before the Court, were submitted in connection with a divorce proceeding in which the substantive accuracy of their contents were material to negotiations concerning the distribution of marital assets. Not once did Mr. Stewart's wife dispute their accuracy. They alone should establish Mr. Stewart's financial condition—if his CJA form, which this Court accepted upon the appointment of this Office, did not already.

Pretrial Services Supports Mr. Stewart's Request

Although we have no reason to believe that the government was aware of Pretrial's position before wrongly asserting that Mr. Stewart's submission merely laid out facts previously before the Court, we note that Mr. Stewart's Pretrial Services Officer has indicated that he favors the removal of monitoring entirely. (Email from J. Moscato to C. Greene, dated April 27, 2016, enclosed as Exhibit C.) For the reasons set forth in our April 20 letter and herein, we agree with Mr. Moscato's assessment. Mr. Stewart presents no risk of flight, and in the words of his Pretrial Services Officer, "present a low risk to the community." (Exhibit C.) We ask that you look past the government's mischaracterization of Mr. Stewart's efforts to substantiate his financial condition and grant his request to modify the conditions of his release.

Thank you for your continued attention to this matter.

¹ Because they contain certain sensitive financial information, we have separately submitted the Exhibits by email and request that they not be docketed.

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Respectfully submitted,

/s/
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Cc. Sarah McCallum, Esq., by ECF
 Brooke Cucinella, Esq., by ECF
 John Moscato, U.S. Pretrial Services Officer, by e-mail